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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,989	03/17/2004	Birger Hahn	041176/274131	3904

826 7590 12/28/2004

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EXAMINER

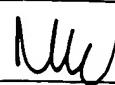
GARRETT, ERIKA P

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/802,989	Applicant(s) HAHN, BIRGER	
	Examiner Erika Garrett	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-20 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-15 is/are rejected.
- 7) ☒ Claim(s) 9, 10 and 16-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/28/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second force and first and second torque must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the first and second force was not described in the specification.

Claim Objections

Claims 8 and 14-15 are objected to because of the following informalities: a first and second force and first and second torque are not disclosed in the specification. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Smuk (6,152,533). In regards to claim 1 and 14-15, Smuk discloses the use of a vehicle seat comprising a fitting first fitting member (31), which is mounted to a backrest structure, and a second fitting member which is mounted to a seat substructure, wherein the first and second fitting member (51) are mounted to pivot relative to the second member about an axis of rotation at least between a folded position and a use position, with the backrest structure extending at about horizontally and at partially over the seat

substructure in the folded position; a compensation spring (35) that is connected to the seat substructure, wherein the compensation spring is operatively connected to the backrest structure (32) via a movable linkage for exerting torque. In regards to claim 2, wherein the linkage includes a link (44), and the link is pivotally mounted to the seat substructure. In regards to claim 3, wherein link has an angular shape. In regards to claim 4, wherein the compensation spring is attached to the link. In regards to claim 5, wherein the linkage includes a connecting bar (40), and the connecting bar is connected to the first fitting member. In regards to claim 6, wherein the linkage further includes a backrest attachment element that is mounted to the first fitting member, and the connecting bar is connected to the backrest attachment element. In regards to claim 7, wherein the linkage further includes a link, the link is pivotally mounted to the seat substructure, the compensation spring is connected to the link, and the connecting bar is connected to the link. In regards to claim 8, further includes wherein the first fitting member can pivot relative to the second fitting member about the axis of rotation to at least an intermediate position that is between the folded position and the use position; the compensation spring exerts: a first force during the folded position, and a second force during the use position; and any force exerted by the compensation spring during the intermediate position is lesser in magnitude than each of the first force and the second force. In regards to claim 11, wherein the compensation spring is attached to the link. In regards to claim 12, wherein the linkage includes a connecting bar, and the connecting bar is connected to the first fitting member. In regards to claim 13, wherein

the linkage further includes a connecting bar, the connecting bar is connected to the first fitting member, and the connecting bar is attached to the link.

Allowable Subject Matter

Claims 9-10 and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-20 are allowed.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to vehicle seat: U.S Pat. No. US005588705A, US006139105A, US006629730B2, US005433507A, US005884973A, US006347834B1, US006336679B1, US006017090A, US006095609A, US006106067A, US006155644A, US006557941B1, US006634714B1, US006669299B2.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 703-605-0758. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EG
December 20, 2004


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600